

Southwest Alabama Community Mental Health

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May 7, 2010

CLARKE COUNTY

OUTPATIENT CENTER
129 CLARKE STREET
P. O. Box 759
GROVE HILL, AL 36451
PHONE: (251) 275-4165

CLARKE PLACE GROUP HOME / DAY PROGRAM
300 CARTER DRIVE
P. O. Box 248
GROVE HILL, AL 36451
PHONE: (251) 275-4135 / (251) 275-4136

CONECUH COUNTY

OUTPATIENT CENTER
220 MAGNOLIA AVENUE
EVERGREEN, AL 36401
PHONE: (251) 578-4545

COMPASS ACADEMY
101 PERRYMAN STREET
P. O. Box 944
EVERGREEN, AL 36401
PHONE: (251) 578-0017

ESCAMBIA COUNTY

COMPASS SCHOOL
P. O. Box 845
21280 Hwy. 31
FLOMATON, AL 36441
PHONE: (251) 296-2249

BREWTON OUTPATIENT CENTER
1321 McMILLAN STREET
BREWTON, AL 36426
PHONE: (251) 867-3242

BREWTON ACTIVITY CENTER
1321 McMILLAN STREET
BREWTON, AL 36426
PHONE: (251) 867-7683

PINEVIEW APARTMENTS
201 OAKWOOD STREET
BREWTON, AL 36426
PHONE: (251) 867-6287

MONROE COUNTY

ADMINISTRATIVE OFFICES
328 WEST CLAIBORNE STREET
P. O. Box 964
MONROEVILLE, AL 36461
PHONE: (251) 575-4203

OUTPATIENT CENTER
530 HORNADY DRIVE
P. O. Box 964
MONROEVILLE, AL 36461
PHONE: (251) 575-4837

ACTIVITY CENTER / DAY PROGRAM
376 AGRICULTURAL DRIVE
P. O. Box 964
MONROEVILLE, AL 36461
PHONE: (251) 743-3820

Letter of Appeal
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-A325
Washington, DC 20554

Docket No. 02-60

Subject: **Request for Review/Appeal** of the Universal
Services Administrative Company (USAC) Rural Health Care
Division's (RHCD) Decision

References:

1. USAC RHCD Administrator's Decision on Rural Health Care Program Decision, dated March 25, 2010 (Attachment 1)
2. Southwest Alabama Community Mental Health's Letter of Appeal to USAC Rural Health Care Division, dated September 21, 2009 (Attachment 2)
3. USAC RHCD Pilot Program Posting Notification Letter, dated August 5, 2009 (Attachment 2-1)

To Whom It May Concern:

Southwest Alabama Mental Health (SWAMH) Consortium respectfully appeals and requests the FCC review the USAC RHCD's determination that the SWAMH Administration Office (465 App Number 17255-01-0001) is ineligible for Pilot Program funding and the subsequent appeal denial issued by USAC and referenced above. We request the FCC assess the eligibility determination made by USAC as well as the information we've provided and determine the site is in fact eligible to receive RHCD Pilot Program funding.

Project Name: Southwest Alabama Mental Health Consortium
Project HCP Number: 17255
Funding Year: 2009

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Introduction

SWAMH Consortium disagrees with USAC's Administrator's Decision on Rural Health Care Program Appeal, dated March 25, 2010 (Attachment 1) as well as USAC's RHCD decision to change the eligibility of the SWAMH Administration Office (Site 17255-01-0001) to ineligible on the SWAMH 465 Attachment Worksheet (Attachment 2-2) prior to posting the form and the Rural Health Care Program Posting Notification Letter, dated August 5, 2009 (Attachment 2-1). We are not seeking to establish a new "Administrative Office" category as stated in USAC's letter dated March 25th, 2010 (Attachment 1), rather we assert that the SWAMH Administration Office is an eligible entity under the already established eligible category of "community mental health center."

The SWAMH Administration Office (Site 17255-01-0001) is a key component of the SWAMH Community Mental Health Center and therefore part of the Community Mental Health Center that has already been determined to be eligible. Without this site, the eligible SWAMH sites participating in this project would not be certified as Community Mental Health Centers and would not function to provide patient services. Therefore, this site should be eligible under the community mental health center category to received Pilot Program funding.

Additionally, USAC's reference in the denial decision dated March 25th, 2010 to the Pilot Program Order that states ineligible costs include "program administration or technical coordination..." is not applicable to the eligibility of this site. This section of the Order speaks to the eligibility of certain program administrative costs which the organization is not seeking to recover. The only costs associated with this site will be for eligible telecommunications and Internet services.

Background:

The Southwest Alabama Mental Health/Mental Retardation Center is a Community Mental Health Center that is comprised of eleven (11) sites: an Administration Office and 10 mental health, mental retardation, and substance abuse sites. The

Administration Office and seven (7) of the sites are participating in the Pilot Program project in a consortium with three other Community Mental Health Centers (East Central Alabama Mental Health Mental Retardation, South Central Alabama Mental Health Board, and West Alabama Mental Health Board).

SWAMH along with each of the other three participating organizations were certified by the Commissioner for the State of Alabama Department of Mental Health and Mental Retardation as Community Mental Health Centers (Attachment 2-3) and function as separate Community Mental Health Centers that are participating together in the Pilot Program consortium. In accordance with Alabama Department of Mental Health standards and certification requirements, the administration functions performed by each of these organizations must be performed by each organization for certification as a Community Mental Health Center. Therefore, these administration functions are performed by Community Mental Health Centers supporting the patient services at their mental health, mental retardation, and substance abuse sites. In all cases except SWAMH, the facilities where these functions are performed are colocated with one or more of the mental health, mental retardation, or substance abuse services sites. However, in the case of SWAMH they have a separate facility that services all of their 10 sites but still functions together with the mental health, mental retardation, and substance abuse sites as a Community Mental Health Center. SWAMH has centralized the administration functions at the SWAMH Administration Office for efficiency and these functions are not duplicated at the individual SWAMH sites. Therefore, the SWAMH Administration Office is the sole location where these critical functions are performed which enable the SWAMH Community Mental Health Center sites to operate and provision health care services to their communities.

Listed below are the essential functions of the SWAMH Administration Office as it relates to the provision of mental health, mental retardation and substance abuse services:

- Operational support and clinical supervision for all mental health, mental retardation and substance abuse services.
- Indigent Drug Program Pharmacy services.
- Outpatient scheduling for consumer/patients discharged from local or state psychiatric inpatient units. Critical standard for CMHC certification for follow-up within 72 hours of discharge.
- Initial screening/ assessment and scheduling for intake/ evaluation for substance abuse intensive outpatient services.
- Staff credentialing for Medicaid, Medicare, Blue Cross, and State contracts.

- Center accounting, data and consumer/patient records hosted and maintained from server located at this site (the data center circuits have been determined to be eligible per previous correspondence with USAC on this topic).
- Telemedicine network infrastructure equipment is centrally located at this location which serves all members of the project consortium. Equipment enables members to connect to each other and other medical and mental health facilities for staffing of cases with therapists, to conduct discharges with other hospitals, and perform other patient service activities.
- Quality assurance services provided from this site to include incident prevention and management report tracking and review, consumer/patient satisfaction, consumer/patient complaints and grievances report and investigation. Clinical quality review and contract compliance reviews for Medicaid, Medicare and State contract patient services.
- Serves as payee for a number of consumer/patients that are unable to handle their own finances. The Administrative office handles this service for the consumer and accounts and disburses funds for the consumer/patient.
- Receives and executes all contracts for services.

Additional Supporting Information:

In reviewing the FCC Orders, the only reference we were able to locate that refers to the eligibility of administrative sites refers to sites that are included in the project to “*function in an administrative capacity for eligible health care providers within the consortium*”. This section of the Order clearly refers to the administration of the “consortium” “(e.g. consortia leaders),” and is not referring to the administration of the Community Mental Health Centers themselves. Therefore, this section of the Order does not, in our opinion, apply to the SWAMH Administration Office because the SWAMH Administration Office is a functioning part of the Community Mental Health Center performing the administration functions of the Center necessary for the provision of health care services to the SWAMH Center communities. It does not function simply and solely in an *administrative capacity* for eligible health care providers comprising the Southwest Mental Health Consortium.

The referenced section is quoted below (Pilot Program Order, FCC 07-198, Para. E.1.73, released November 19, 2007):

“although state organizations and entities do not constitute eligible health care providers, we find they may apply on behalf of eligible health care providers as part of a consortium (e.g., as consortia leaders) to function, for example, in an administrative capacity for eligible health care providers

within the consortium. In doing so, however, state organizations and entities are prohibited from receiving any funding from the Pilot Program.²³⁴ In addition, we also find that, like state entities, other not-for-profit ineligible entities may apply on behalf of eligible health care providers as part of a consortium (e.g., as consortia leaders), and otherwise function in an administrative capacity for eligible health care providers within the consortium.²³⁵ Like state organizations and entities, these not-for-profit entities are prohibited from receiving any funding from the Pilot Program.”

Again, the Southwest Alabama Mental Health Administration Office is a component of the Southwest Alabama Mental Health Community Mental Health Center. It is a functioning part of this eligible health care provider servicing the health care community and does not exist solely as an administrator of the Southwest Alabama Mental Health Consortium. In Paragraph E.i.c.109 of the Pilot Program Order the FCC recognized that a component of an eligible health care provider is eligible when the facility is “**part of the eligible health care provider**” even when the function that the facility performs on its own would not be eligible:

“Texas Health Information Network Collaborative and Virginia Acute Stroke Telehealth Project request that the Commission expand the list of facilities eligible for support.³⁵⁰ Section 254(h)(7)(b) of the 1996 Act defines health care providers.³⁵¹ The Commission adopted section 54.601 of its rules based on a plain reading of the statute.³⁵² In the 2006 Pilot Program Order, the Commission explained that it would use the definition of health care provider found in section 54.601 of the Commission rules to determine what facilities are eligible for support.³⁵³ As explained above, the Commission does not have authority to waive a requirement imposed by statute.³⁵⁴ We conclude, because section 54.601 is based on a statutory requirement, we cannot waive section 54.601 and expand the types of health care facilities that are eligible for support under the Pilot Program.³⁵⁵ We find however, although emergency medical service facilities themselves are not eligible providers for purposes of the RHC Pilot Program, Pilot Program funds may be used to support costs of connecting emergency medical service facilities to eligible health care providers to the extent that the emergency medical services facility is part of the eligible health care provider.”

Furthermore, this finding is analogous to the FCC’s decision in the Schools and Libraries Division (SLD) program that the types of activities conducted at the school district offices and other support activities on school district property are a critical part of organization’s ability to provide educational services (Second Report and Order (FCC 03-101, released April 30, 2003)). As a result, the FCC amended the rules as follows to clarify the meaning of educational purposes, which is one of the tests of eligibility similar to the “patient services” test that seems to have been used for the Pilot Program:

"[A]ctivities that are integral, immediate, and proximate to the education of students, or in the case of libraries, integral, immediate, and proximate to the provision of library services to library patrons, qualify as "educational purposes." Activities that occur on library or school property are presumed to be integral, immediate, and proximate to the education of students or the provision of library services to library patrons."

The services provided by the SWAMH Administration Office are in direct support of the eligible SWAMH Community Mental Health Center sites and are integral, immediate, and proximate to the patient services provided at these facilities. If the administration site providing operational direction and supervision of the patient services, data services, billing/patient records, all other accounting functions, quality assurance functions, clinical supervision, credentialing, contract compliance, etc., were not operating then the individual health care provider entities would cease to operate. Therefore, these types of services are integral, immediate, and proximate to the provision of health care services with the SWAMH Community Mental Health Center.

Even though the Rural Health Care Program and the Schools and Libraries Program are two different programs with different rules, it seems that with this ruling the Commission has signaled that they recognize the administrative activities provided within an organization in support of eligible entities/sites, regardless of physical proximity, are necessary for the eligible sites to be able to provision their services. Therefore, they deemed these sites to be eligible sites.

Summary:

The information we've provided demonstrates that the SWAMH Administration Office is a key component of the eligible SWAMH Community Mental Health Center; the functions performed at this site are in direct support of the eligible SWAMH sites (they are integral, immediate, and proximate to the patient services); the eligible SWAMH sites would not be able to provide patient services without the Administration Office and would not be certified as eligible Community Mental Health Centers; and the reference in the Order to administrative sites is not applicable to the SWAMH Administration Office because it functions in the organization as a "part of the eligible" community mental health center to provision health care services. Therefore, request the FCC reverse USAC's eligibility decision and identify the SWAMH Administration Office (465 App Number 17255-01-0001) as an eligible community mental health center site eligible to receive Pilot Program funding.

Thank you for your consideration. We greatly appreciate the opportunity to participate in the RHCD Pilot Program. Please let me know if you require any additional information to assist you in completing your review.

Sincerely,



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Attachments:

1. USAC RHCD Administrator's Decision on Rural Health Care Program
Decision Letter, dated March 25, 2010
2. Southwest Alabama Community Mental Health's Letter, Subject: Letter of
Appeal to USAC Rural Health Care Division, dated September 21, 2009
 - 2-1. Rural Health Care Division Pilot Program Posting Notification
Letter, HCP# 17255, Dated August 5, 2009
 - 2-2. Form 465 Attachment Worksheet, Southwest Alabama Mental
Health Consortium, Posted on RHCP Site August 5, 2009
 - 2-3. State of Alabama Department of Mental Health and Mental
Retardation Letter, Dated September 4, 2008